

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION - LOS ANGELES

UNITED STATES OF AMERICA,)	CASE NO: 2:18-CR-00759-CJC-4
)	
Plaintiff,)	CRIMINAL
)	
vs.)	Los Angeles, California
)	
AARON EASON,)	Tuesday, November 27, 2018
)	(1:08 p.m. to 2:25 p.m.)
<u>Defendant.</u>)	

DETENTION HEARING

BEFORE THE HONORABLE ROZELLA A. OLIVER,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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Transcribed by: Exceptional Reporting Services, Inc.
P.O. Box 18668
Corpus Christi, TX 78480-8668
361 949-2988

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

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1 Los Angeles, California; Tuesday, November 27, 2018; 1:08 p.m.

2 (Call to order)

3 **THE CLERK:** Calling Case CR-18-759, *United States of*
4 *America versus Aaron Eason*. Counsel, appearances, please?

5 **MR. RYAN:** Good afternoon, Your Honor, David Ryan and
6 George Pence on behalf of the United States. Also at counsel
7 table is FBI Special Agent Hank Waldheim.

8 **THE COURT:** Good afternoon.

9 **MR. McNICHOLAS:** Good afternoon, Your Honor, John
10 McNicholas appearing on behalf of Aaron Easton who's present in
11 custody.

12 **THE COURT:** Good afternoon. Good afternoon, please
13 be seated. All right, we're here today on, Mr. McNicholas,
14 your motion for a bail review. And procedurally I thought it
15 would go to the district judge but it looks like it's been sent
16 back to me to resolve.

17 **MR. McNICHOLAS:** Yes, Your Honor. We submitted the
18 declaration of Brittney Welsh (sic) who is present in court,
19 and I would actually like her to testify if your -- if the
20 Court would permit. And I'm also reading the addendum to the
21 Pretrial Services Report which does state that Walter Eason
22 would actually be willing to act as a secured surety. So that
23 could be new information as well.

24 **THE COURT:** Okay, all right. So I'll take that in --
25 for purposes of the new information that's been presented. All

1 right, and --

2 **MR. McNICHOLAS:** Additionally, Your Honor, with the -
3 - with Ms. Welsh's (sic) declaration, I submitted Exhibits 9
4 and 10. After I filed the declaration, the Government did
5 provide me with video recordings and I was able to do
6 screenshots of parts of those that I have provided to the Court
7 as well. So my exhibit numbers actually trail from the last
8 hearing that we were at and that's why I started --

9 **THE COURT:** Right.

10 **MR. McNICHOLAS:** -- with Exhibit 9.

11 **THE COURT:** Right. And then so what was handed up to
12 me are color copies at least I pulled down your -- the
13 declaration of Ms. Welsh (sic) at Docket 65 and so I have two
14 exhibits, nine and ten, and then it looks like after that are
15 the additional ones that you just referenced --

16 **MR. McNICHOLAS:** Right.

17 **THE COURT:** -- that you made screenshots.

18 **MR. McNICHOLAS:** And I could describe them to the
19 Court. Exhibit 11 is intended to show the actual speaker's
20 area from the perspective of the group that Mr. Eason was
21 associated with. It was a free speech rally. So Exhibit 11
22 actually shows the area in the background where the speakers
23 were engaged. So I thought that was significant and that
24 should be shown to the Court.

25 Exhibit 12 is merely a shot of the resistance

1 movement, the Antifa crowd, that was there, possessing banners
2 "Trump must go by any means necessary." I thought that was
3 significant enough to show to the Court as well.

4 Exhibit 13 is four different still screenshots. The
5 Government has presented exhibits of Mr. Eason using physical
6 force against an individual who appears to be on the ground
7 who's wearing dark clothing. Exhibit 13 gives the Court
8 perspective on what actually occurred. Mr. Eason was attacked
9 by that individual. It's shown by the stills that I have
10 starting with 13-A, I call it, the first page, where the
11 individual is actually taking a swing at Mr. Eason. Mr. Eason
12 does not punch the man. He puts his arm up in the air, his
13 hand is in the air to block the punch. After that, the second
14 shot, the second still, shows the individual trying to tackle
15 Mr. Eason. He puts his hands around Mr. Eason's waist and the
16 two of them go to the ground. As you can see by the third
17 photograph, they're going to the ground. And by the fourth
18 still, Mr. Eason has the man, the man is face down, but he's
19 still holding on to Mr. Eason's legs. And Mr. Eason then uses
20 his elbow and he uses his fist to get the guy loose. When the
21 man is loose, Mr. Eason stands up, he returns to where he was
22 before. That's extremely important because from the evidence
23 I've seen, that is the most significant act of violence that
24 the Government claims Mr. Eason engaged in ever. So that was
25 important.

1 Exhibit 14 is also important because it kind of lays
2 out the positions of the different individuals, the different
3 groups. As you can see on the first page of Exhibit 14 there's
4 Aaron Eason standing behind what is an orange mesh that was
5 placed by the Berkeley Police Department. On the other side of
6 the orange mesh, you see in the distance there is Berkeley
7 police officers. Well that was sort of a no-walk zone. That
8 was the area that the police were to patrol during the rally.
9 On the other side is -- of the mesh, there's actually another
10 mesh, and you'll see that 14-B, the second page, that is what
11 is on the other side of the mesh. So you see there's a
12 significant number of individuals dressed in black with their
13 faces covered, and that is what Aaron Eason's looking at,
14 because these pictures were taken simultaneously, Your Honor.
15 The camera was panning one group and then panning the other
16 group. I was noting what was actually being verbalized, which
17 I will proffer. I'm not going to play the recordings today but
18 there's an individual singing "The Star Spangled Banner" next
19 to Aaron Eason, and meanwhile the -- you can hear where the
20 Antifa crowd is, their chant is, "Racist, sexist, antigay, Nazi
21 scumbags, go away." And that was going on pretty much
22 throughout the entire day from that side until actual violence
23 did ring out. It's also important to note, I just wanted the
24 Court to take notice of who's on the side where -- who's Aaron
25 Eason standing with. Well, one of the individuals is Brittney

1 Welsh (sic), who I want to testify. She's right next to him.
2 And then there's other people, various different colors,
3 various different racial backgrounds that are standing in Aaron
4 Eason's group. And I thought was significant as well. That's
5 why I attached that.

6 **THE COURT:** That's Exhibit 14, the --

7 **MR. McNICHOLAS:** Yeah, Exhibit 14, Your Honor.

8 **THE COURT:** Okay, 14-A.

9 **MR. McNICHOLAS:** Yes.

10 **THE COURT:** All right, let me just ask either
11 Mr. Ryan or Mr. Pence, with respect to the exhibits, it sounds
12 like Mr. McNicholas, there's -- obtained them from the
13 discovery that you produced being the Government so I assume
14 there's no objection as to foundation.

15 **MR. RYAN:** No objection.

16 **THE COURT:** Okay, all right. And then we have -- let
17 me -- I'll just ask you to sit down for just a minute,
18 Mr. McNicholas, so we can ascertain how we're going to proceed.

19 And then I have from the Government an exhibit binder
20 which I assume, Mr. Ryan, has already been provided to
21 Mr. McNicholas.

22 **MR. McNICHOLAS:** I --

23 **THE COURT:** Or the exhibits, the content.

24 **MR. McNICHOLAS:** I did receive them by email
25 yesterday. I don't -- did you give me the book? I didn't get

1 the book.

2 **THE COURT:** And it looks like they're the same
3 exhibits as contained in the courtesy copy; is that right, --

4 **MR. RYAN:** Yes, it should --

5 **THE COURT:** -- Mr. Ryan?

6 **MR. RYAN:** -- be file-stamped.

7 **THE COURT:** Okay.

8 **MR. RYAN:** On the top.

9 **THE COURT:** Great. And does the Government intend to
10 put on a witness?

11 **MR. RYAN:** No, Your Honor.

12 **THE COURT:** Okay, all right. So then,
13 Mr. McNicholas, you did indicate that you would like to call a
14 witness; is that Ms. Welsh (sic)?

15 **MR. McNICHOLAS:** Yes, Your Honor.

16 **THE COURT:** Okay, all right, you may go ahead and do
17 that. Is she present, Ms. Welsh (sic)?

18 **MR. McNICHOLAS:** Yes, she is.

19 **THE COURT:** All right. Good afternoon, Ms. Welsh
20 (sic). If you could come forward?

21 **MS. SPEAKER:** I'm so sorry.

22 **THE COURT:** It's all right. We misdirected you.
23 We're in a --

24 **MS. SPEAKER:** We're in a different courtroom.

25 **THE COURT:** -- different courtroom from our normal

Welch - Direct / By Mr. McNicholas

9

1 one. Sorry about that.

2 **THE CLERK:** Can you stand right there and raise your
3 right hand?

4 **BRITTNEY WELCH, DEFENDANT'S WITNESS, SWORN**

5 **THE CLERK:** Thank you. You can go ahead and have a
6 seat. Go ahead and state and spell your name for the record.

7 **THE WITNESS:** Brittney Welch, that's B-R-I-T-T-N-E-Y,
8 Welch, W-E-L-C-H.

9 **THE COURT:** All right, you may proceed,
10 Mr. McNicholas.

11 **MR. McNICHOLAS:** Hello, Ms. Welsh (sic).

12 **DIRECT EXAMINATION**

13 **BY MR. McNICHOLAS:**

14 Q What is it that you do for a living?

15 A Right now I'm a caretaker for my father. He has late-
16 stage cancer. I am also a fulltime student getting my
17 certification as a respiratory therapist practitioner.

18 Q And do you live in San Diego County?

19 A I'm in North County, Oceanside.

20 Q Do you know Aaron Eason?

21 A Yes.

22 Q And how do you know Aaron Eason?

23 A He attended the rally that I had organized in San Diego
24 called "March For Trump."

25 Q Okay. Now, you said you organized a rally in San Diego

1 called "March For Trump." What was that about?

2 A It was the nationwide march that occurred on March 4th,
3 2017. I had volunteered to organize the location of San Diego.

4 Q And what was it about Aaron Eason that called for the two
5 of you to meet?

6 A He showed up. I had introduced -- I had met a lot of the
7 attendees that had showed up as well. He volunteered to assist
8 me if I had any troubles, and we exchanged information and we
9 kept in contact and stuff.

10 Q Do you recall whether the "March For Trump" in San Diego
11 was an organized event?

12 A Yes. It was extremely organized.

13 Q And were there permits requested for that?

14 A We had permits. We also had the Embarcadero area. We had
15 the FBI and the police of the area patrol and, you know, scout
16 the area to make sure that nothing was out of place and made
17 sure that people were safe as well.

18 Q And were there speakers at that event?

19 A Not at that -- not in my organized march. There was a
20 second part to it called "The Spirit Rally," I believe, and
21 there were speakers.

22 Q Okay. Now, you say you organized this "March For Trump."
23 Is it because of any political leanings or affiliations that
24 you have?

25 A I don't have any political leanings. I never really

1 identified with one. But I wanted to express my right to show
2 my support for our president.

3 Q Have you ever heard of a group called the "Rise Above
4 Movement?"

5 A Not until recently.

6 Q Like how recently?

7 A Until this case.

8 Q So after this case you -- was filed, you heard about it.

9 A Correct.

10 Q Do you know who told you about it?

11 A It was you. You did.

12 Q Okay. And that was obviously after I was appointed to be
13 Mr. Eason's attorney.

14 A Correct.

15 Q So at the San Diego march, was there anything unusual that
16 happened between different groups of people that was noticeable
17 to you?

18 A Our march -- the march was pretty peaceful. There was no
19 altercations whatsoever. Now, at the spirit rally afterwards
20 there were some extreme groups there. There was like a handful
21 of Antifas.

22 Q Okay, now you mentioned a spirit rally, where was the
23 spirit rally?

24 A That was held by the Bay, right behind the convention
25 center.

1 Q And were you there for that?

2 A I attended after the march ended.

3 Q Was Aaron Eason there?

4 A I believe so.

5 Q Now, you said some Antifa were present at the spirit
6 rally. How do you know what Antifa is?

7 A Just from what they look like online, their presence in
8 the media of -- I've known what Antifa was from what the media
9 have, you know, shown on TV, their violence presence of
10 attacking people at different events.

11 Q So did any attacks occur at San Diego?

12 A No attacks occurred at San Diego. I made sure that there
13 was police and the authorities involved to make sure people
14 were safe.

15 Q All right. After you organized the San Diego event, did
16 you go on to assist with any other events?

17 A I provided my support for the Berkeley free speech rally.

18 Q And that was on April 15, 2017, correct?

19 A Yes, sir.

20 Q Now, before that, I believe it was in March, not too long
21 after your San Diego "March For Trump," there was an event in
22 Huntington Beach; did you know about that?

23 A Yes, I did.

24 Q And were you part of that group?

25 A No, I was not.

1 Q Were you -- did you have any communications with anybody
2 that was actually in Huntington Beach?

3 A Yes, I did.

4 Q And who was that?

5 A With Aaron.

6 Q And what was -- what were your communications involving?

7 A He just asked if I was going to be there.

8 Q Okay. The -- your involvement in the San Diego event was
9 related to what you said was a national movement, correct?

10 A Correct, a totally grassroots national movement.

11 Q And in fact wasn't there a group based out of Berkeley
12 that was also organizing an event on that same day?

13 A Correct. It was the Berkeley's location of the "March For
14 Trump."

15 Q And do you know who organized that event?

16 A Rich Black.

17 Q So Rich Black was the organizer of the "March For Trump."

18 Did Rich Black then organize the April 15th event?

19 A Yes, he did.

20 Q Did -- and did Rich Black ask you to assist him at the
21 April 15th event?

22 A He did.

23 Q And what did he ask you to do?

24 A He asked if I could try to invite people, see if there was
25 anyone that -- any supporters from my event would be willing to

1 go show up because, you know, more power in numbers.

2 Q Did you contact Aaron Eason based upon that?

3 A I did let Aaron know that I was thinking about going to
4 Berkeley because it was being promoted on Facebook. I asked if
5 he would like to volunteer and come along and he -- yes.

6 Q And what was the purpose of asking Aaron to come along?

7 A To help with the event, to help protect some of the
8 attendees from getting attacked.

9 Q And why was there an actual threat of attendees being
10 injured or hurt?

11 A Because that is precisely what Antifa did at the "March
12 For Trump" rally on March 4th, 2017. They also threatened Rich
13 Black directly and the other attendees that were there.

14 Q Did you actually witness Antifa attacking attendees of the
15 San Diego event?

16 A The San Diego event I did not witness it. I did receive
17 threats online that they were going to try to attack the
18 attendees.

19 Q And you were also familiar with what happened with Milo
20 Yiannopoulos --

21 A Yes.

22 Q -- at Berkeley?

23 A Yes.

24 Q And you are also familiar with Ben Shapiro's event being
25 canceled.

1 A Correct.

2 Q So what -- did Rich Black actually voice his concerns to
3 you that he thought that people were in danger if there was not
4 some sort of a presence at the Berkeley event in order to
5 protect the speakers?

6 A Yes.

7 Q So did he ask you to recruit these people?

8 A No. He just asked if I could just invite more people
9 because he felt that if there weren't as many people, then
10 there won't be -- then they would be outnumbered by Antifa.

11 Q So you told Aaron Eason about the event, correct?

12 A I told him about the event and I asked if he could see if
13 he can reach out to any friends, any people that he met at the
14 rally. I reached out to a bunch of people at the rally if they
15 would like to go to the Berkeley event.

16 Q Now, Rich Black also said that he would reimburse for
17 travel expenses and hotels, correct?

18 A Correct. He said he would reimburse if I were to bring a
19 group of people, however many, just as long as we had people to
20 provide as a deterrent or protection.

21 Q So did in fact everybody get reimbursed for their expenses
22 to come?

23 A No.

24 Q Okay. Including who?

25 A Me.

1 Q So you were out-of-pocket --

2 A Yes.

3 Q -- for what? What expenses did you have to pay for?

4 A Probably altogether for the hotel it was like 1,500.

5 Q Did you pay for Aaron's hotel room?

6 A Yes.

7 Q When the event at Berkeley took place on April 15th, do
8 you recall approximately what time of the morning you arrived
9 at that location?

10 A I'm going to say it was around 8:00 a.m., 7:00 a.m., 8:00
11 a.m.

12 Q And what was going on when you arrived?

13 A A lot of the people were just standing around. There was
14 hardly any attendees there at first. There was no PD, there
15 was no orange mesh.

16 Q So it was a small crowd.

17 A Small crowd.

18 Q What time did the speaker start speaking?

19 A It's hard to say. I want to say maybe around 10:00 a.m.

20 Q And then I've submitted an exhibit which you've already
21 seen earlier today and it was marked as Exhibit 11, but it
22 shows the area where the speakers were; you recall seeing that
23 exhibit?

24 A Yes.

25 Q And what was the sound system like that the speakers had?

1 A They had a couple speakers, stereos, and a microphone.

2 Q Do you recall a time where Antifa started flooding the
3 park?

4 A Yes.

5 Q And was that -- do you recall approximately what time that
6 was?

7 A It had to have been around 9:00 a.m., --

8 Q When the --

9 A -- 8:30, 9:00 a.m.

10 Q -- Antifa people came, did they bring their own sound
11 systems?

12 A They did. A lot of them had stereos. Yes, they did.

13 Q When Antifa people arrived, could you even hear the
14 speakers that were with your group?

15 A No, not really. They had blowhorns.

16 Q And of course they were chanting as well.

17 A They were chanting. They had rap music cranked up really
18 loud.

19 Q Was there a time where you observed Antifa people with
20 weapons?

21 A Yes.

22 Q And what did you observe from the Antifa side?

23 A I saw sticks, not sticks but like wooden poles, some metal
24 poles, bats, bottles, big rocks, bricks.

25 Q Were they being thrown?

1 A They weren't being thrown but you can just -- they had
2 them in the grass area with them.

3 Q Were there any explosive devices that you witnessed?

4 A Yes.

5 Q And when -- did you actually see explosive devices
6 ignited?

7 A Yes.

8 Q And were any of them from your side of the mesh?

9 A They were being thrown in from the Antifa side onto my
10 side of the mesh.

11 Q Do you recall a point in the day where the event really
12 got out of control and it looked like there were fights
13 breaking out?

14 A Yes.

15 Q What was -- from your perspective, what did you observe?

16 A I observed Antifa, the Antifa side, they were reaching
17 over, you know, threatening to hit people. And then it got to
18 the point where they started initially throwing things, M80's,
19 they were throwing them. They started exploding by my feet and
20 by my head. They started throwing more. And then they tried
21 to go around the barrier and through the sides of the park to
22 where the speakers were.

23 Q Did any of the Antifa people make it to the other side
24 where the speakers were?

25 A Some of them tried and what ended up happening was a lot

1 of the speakers -- or not the actual speakers but the
2 attendees, some of the attendees were pushing them out onto the
3 street.

4 Q Did you see a point where basically most of the people
5 ended up in the streets and out of the park?

6 A Yes.

7 Q Were you part of that group that left the park?

8 A I tried to stay as near to the stage as possible.

9 Q And why was that?

10 A To help the attendees that were getting hurt.

11 Q So there were attendees being hurt.

12 A Yes.

13 Q People that were there to attend the free speech rally.

14 A Yes.

15 Q Were any of those Antifa members or were there -- were the
16 victims associated with your group?

17 A All of the victims were the attendees that were there for
18 the event.

19 Q And when you say that, --

20 A For the rally.

21 Q -- because the Government has a different perspective on
22 what attendees are, when you say "attendees," are you talking
23 about Antifa protestors or are you talking about people that
24 were there to support the free speech movement.

25 A People that were there to support the free speech movement

1 were the ones that were getting hurt.

2 Q And what kind of injuries did you witness?

3 A People had gashes on their faces. A lot of pepper sprays,
4 a lot of people, like older people, younger people, they
5 couldn't walk, couldn't see. We had to drag them behind the
6 stage because that was the only safe area. Some of the people,
7 some of the attendees, if they tried to push Antifa away, were
8 getting dragged out into the street into the crowd of Antifa to
9 get beat up and thrown back. So it was pretty scary, it was
10 pretty hectic.

11 Q How much contact did you have with Aaron Eason that day?

12 A I tried to keep in contact with him as much as possible.
13 Like I kept -- you know, if I saw someone that knew him or if I
14 saw him, I just made sure he was okay. So as much as possible
15 to make sure he was okay.

16 Q Did you have any belief that Mr. Eason was actually part
17 of some kind of White supremacist group when he came to assist
18 you that day?

19 A Not at all.

20 Q Now, the Government is -- has screenshots of Mr. Eason
21 engaging in a fight; you're aware of that, right?

22 A Correct.

23 Q You never witnessed Mr. Eason in actual physical
24 altercations, though, right?

25 A Never.

1 Q As far as the color of the shirts, was there an agreement
2 as to what color Mr. Eason would wear or what color you would
3 wear while you were there?

4 A We were all to wear light gray.

5 Q And the reason was what?

6 A To be able to distinguish ourselves in case we got lost in
7 the chaos.

8 Q Right. And of course Antifa was mostly in black.

9 A They were all in black so we wanted to make sure that we
10 were able to distinguish ourselves from them.

11 Q Now, some of these individuals on your side were also
12 wearing masks; you recall that?

13 A Yes.

14 Q And did you know those people?

15 A No. Not personally.

16 Q Not personally. Did you know whether they were affiliated
17 with Mr. Eason in any kind of organizations?

18 A No.

19 Q Now, you got to know Aaron Eason pretty well, correct?

20 A Correct.

21 Q And you saw him outside of these rallies, didn't you?

22 A Correct.

23 Q How many times do you think you saw Mr. Eason outside of
24 these political events?

25 A Maybe ten times.

1 Q And in the ten times that you saw Mr. Eason outside of
2 these political events, were you able to gauge in your mind
3 whether Mr. Eason was a responsible individual will actually
4 show up for court if he were asked to do so?

5 A Absolutely.

6 Q Was Mr. Eason working or was he engaged in any other
7 activities that you knew of at the time?

8 A Every time I would ask Aaron what he was doing, he was
9 either working, looking for work, or he was spending time with
10 his daughter.

11 Q Did you ever see anything regarding Mr. Eason that would
12 make you believe that he was dangerous?

13 A Not at all.

14 Q So you wouldn't think that he's a threat to the community
15 if he were to be released.

16 A Oh, no, not at all. He's too responsible.

17 Q Did anyone on your side of the mesh at any of the events
18 you were involved with or -- I mean on your side of the mesh or
19 involved with your groups at either San Diego or in Berkeley,
20 did any of them ever possess weapons that you saw?

21 A Never.

22 Q There were allegations that Mr. Eason actually wore a
23 mask; did you ever see Mr. Eason with a mask?

24 A Never. Everyone knew not to wear masks because, you know,
25 we had nothing to hide.

1 Q And did you ever see Mr. Eason put tape on his hands?

2 A Never.

3 Q And did you ever see Mr. Eason hold sticks or talk about
4 sticks or anything like that?

5 A Never.

6 Q In fact, the whole idea of Mr. Eason's presence was just
7 to protect the people that were speaking, correct?

8 A Absolutely.

9 MR. McNICHOLAS: Thank you, I have nothing further.

10 THE COURT: All right, thank you very much. Cross
11 examination?

12 MR. RYAN: Thank you.

13 (Mr. Ryan/Mr. Speaker confer)

14 MR. RYAN: Your Honor, may I approach with the
15 exhibit binder?

16 THE COURT: Yes, yes.

17 (Pause)

18 MR. RYAN: Good afternoon, Ms. Welsh (sic).

19 THE WITNESS: Hello.

20 CROSS EXAMINATION

21 BY MR. RYAN:

22 Q In your declaration and I believe just now, you wrote that
23 you were not familiar with RAM, or the "Rise Above Movement" in
24 2017, correct?

25 A Correct.

1 Q You're not a part of the "Rise Above Movement" or RAM?

2 A No.

3 Q You never attended any RAM boxing training sessions or
4 mixed martial arts training sessions.

5 A No.

6 Q Did you -- you didn't communicate with RAM leaders Ben
7 Daily or Robert Rundo about who was involved in RAM.

8 A Not at all.

9 Q Or about what RAM's goals were or ideology.

10 A No.

11 Q If you can, take a look in the binder in front of you in
12 Exhibit 4, it's one of the last tabs there. It has three
13 pages. If you can look at Exhibit 1, do you recognize anyone
14 in that photograph?

15 A Okay, yes.

16 Q Who do you recognize?

17 A That is Aaron.

18 Q Is that the Defendant, Mr. Eason, inside of the red circle
19 there?

20 A Yes.

21 Q Do you recognize anyone else in that photograph?

22 A No. I can't really tell.

23 Q Okay, if you can turn to page two, please; do you
24 recognize anyone in that photograph?

25 A I'm assuming that's another picture of Aaron.

1 Q Do you recognize anyone else in the photograph?

2 A No.

3 Q And then if you can turn to page three, do you recognize
4 anyone in that photograph?

5 A Aaron and Ben Daily.

6 Q Is that Ben Daily with the sunglasses in the front middle
7 standing up?

8 A Yes.

9 Q How do you know Ben Daily?

10 A He attended my "March For Trump" rally.

11 Q In San Diego?

12 A Correct.

13 Q Did you ever see Mr. Daily after that event?

14 A Yes.

15 Q Where did you see him?

16 A At the Berkeley --

17 Q Event?

18 A Yes.

19 Q Did you ever see Mr. Daily on any other occasions?

20 A Yes.

21 Q What occasions are those?

22 A He -- a few months ago he paid me some cash because he
23 felt bad about me not getting reimbursed for the Berkeley
24 event.

25 Q Did you ever talk with Mr. Daily about the "Rise Above

1 Movement?"

2 A Not -- I wasn't aware about the "Rise Above Movement." I
3 knew that he had a group of friends that, you know, he hung out
4 with. But I wasn't aware that he had a movement.

5 Q Okay.

6 A I just, you know, I knew he had a group of friends that,
7 you know, he went to AA meetings with.

8 Q Okay. And you testified that you asked Mr. Eason to go to
9 Berkeley, and in your declaration you wrote you asked him to go
10 there and to "invite friends to assist in protecting speakers
11 and innocent bystanders from violent attacks." Do you recall
12 that?

13 A Correct.

14 Q Did you know that Mr. Eason was inviting people associated
15 with the "Rise Above Movement" to the event?

16 A No.

17 Q You said that at the event, everyone knew -- I believe
18 your testimony was everyone knew not to wear masks.

19 A Correct.

20 Q Did you see the people standing around Mr. Eason at the
21 event wearing masks with skeleton or skull designs on their
22 faces?

23 A I did see a few people. I did see a couple people wearing
24 masks.

25 Q Yes. One of them was Mr. Daily. Or if you know.

1 A When I saw him at the event, I didn't see him wearing a
2 mask.

3 Q Okay. You didn't follow RAM social media accounts or
4 Twitter or Instagram.

5 A No.

6 Q You didn't see RAM describe itself on Twitter as: "The
7 only alt-right crew that actually beats Antifa senseless and
8 wins rallies."

9 A No. I've never seen that.

10 Q If you can look at page four, there's a tab called
11 "complaint." It's towards the front of the binder. If you
12 can, look at page four. Just let me know when you're there.

13 A Okay. Okay, I'm there.

14 Q You don't recall ever seeing these posts on any social
15 media accounts.

16 A On page four?

17 Q Page four of the complaint which should be the first tab,
18 the two pictures at the bottom, one of which says: "White
19 unity" and the other says: "R-A-M" with people with the skull
20 masks.

21 A No, I've never seen this and I've never seen these
22 pictures before.

23 Q And so you didn't know that Ben Daily's group was a group
24 that promoted White unity.

25 A Correct.

1 Q You never saw Ben Daily or Mr. Eason or the friends that
2 he went to Berkeley or San Diego with, you never saw them with
3 tattoos or sculptures or social media posts promoting Adolph
4 Hitler or Nazi ideology.

5 A I've never seen that.

6 Q And you were not at the Huntington Beach event on March
7 25th, 2017, correct?

8 A Correct.

9 Q You were not at this -- in an event in San Bernardino on
10 June 10, 2017.

11 A Correct.

12 Q At Huntington Beach, you didn't see Mr. Eason and several
13 others pursue or assault protestors.

14 A Not at all.

15 Q And at San Bernardino, you didn't see Mr. Eason and
16 several others chase protestors and smash their car windows.

17 A No.

18 Q And regarding Berkeley, before Berkeley, did you know that
19 Mr. Eason -- whether he was organizing hand-to-hand and
20 formation fighting training with RAM members?

21 A No.

22 Q And at the Berkeley event, when you were there, you didn't
23 see Mr. Eason assault anyone.

24 A Not at all.

25 Q You didn't see the friends that Mr. Eason came with

1 assault anyone.

2 A No.

3 Q If you can, please look at Exhibit 1, pages five and six.

4 Is it correct that you didn't see this incident when it
5 happened?

6 A I just saw this picture today.

7 Q Okay.

8 A During this event, like when this was actually happening,
9 I wasn't in the area.

10 Q Okay. If you can, look at Exhibit 2, pages one and two,
11 and focusing on the portion inside the red circle there, did
12 you see that incident when it happened?

13 **MR. McNICHOLAS:** Objection, asked and answered.

14 **THE COURT:** Overruled.

15 A I don't remember. I don't think so.

16 Q Okay.

17 **THE COURT:** Which -- are you on Exhibit 2, Mr. Ryan?

18 **MR. RYAN:** Exhibit 2, pages one and two.

19 A No.

20 Q Okay. And if you can return to Exhibit 1, page one, is it
21 correct that this depicts the orange barrier that you were
22 testifying about earlier?

23 A Yes.

24 Q And your group would be on the left side of this picture.

25 A Yes.

1 Q And if you can, turn to page two; do you recognize the
2 individual there inside the red circle?

3 A Yes.

4 Q Who is that?

5 A That's Aaron Eason.

6 (Pause)

7 MR. RYAN: One moment.

8 Q If you can, turn to the indictment tab, page 11. It's the
9 second tab. You'll see at the bottom, overt act number 47. It
10 continues on to page 12.

11 A Okay.

12 Q Where it says: "Maybe if there is enough time, could
13 mention Berkeley, how we were the first guys to jump over the
14 barrier and engage and how that had a huge impact." Did you
15 see that the men with the skull masks and Mr. Eason were the
16 "first guys to jump over the barrier and engage and how that
17 had a huge impact?"

18 A I'm not sure who was the first to run over the barrier.
19 All I know is that there was an altercation, there was a fight.
20 I saw people on the ground. And that's when people all started
21 rushing in over the barrier to fight.

22 Q And that fight that you saw, was that on your side of the
23 orange barrier or on the other side of the orange barrier?

24 A It started on our side and then it moved over to the
25 Antifa side.

1 Q Okay. At the event in San Diego or Berkeley, did you see
2 Mr. Eason and the people he was with gathered around a sign
3 that said: "Da Goyim Know?"

4 A At the San Diego --

5 **MR. McNICHOLAS:** Your Honor, I'm going to object.
6 The crime charged here is inciting a riot. This is totally
7 irrelevant.

8 **THE COURT:** Overruled. You may proceed.

9 **MR. RYAN:** Would you like me to repeat the question?

10 A In San Diego?

11 Q In San Diego or in Berkeley.

12 A No.

13 Q In neither event.

14 A I think I saw -- no, I don't remember seeing any of those
15 signs at those events.

16 Q Did you ever hear Mr. Eason or the people he was with use
17 the phrase, "Da Goyim Know?"

18 A No.

19 **MR. McNICHOLAS:** Objection, Your Honor, irrelevant.
20 I don't think there was any allegation regarding anti-Jewish
21 bias at these rallies.

22 **THE COURT:** All right, you can answer with respect to
23 Mr. Eason, and I think the answer was "no."

24 //

25 //

1 **BY MR. RYAN:**

2 Q Did you ever hear Mr. Eason or his -- or the friends that
3 he invited to Berkeley refer to the event as a "total Aryan
4 victory?"

5 A No.

6 Q Did you ever hear them refer to RAM and their -- the goals
7 of RAM as White nationals?

8 **MR. McNICHOLAS:** Your Honor, I'm going to object
9 again --

10 A No.

11 **MR. McNICHOLAS:** -- because he keeps referring to
12 "them." And I believe this is Aaron Eason's hearing and not
13 Mr. Rundo's hearing or anybody else's hearing. It's
14 Mr. Eason's hearing.

15 **THE COURT:** All right, if you could, rephrase. I'm
16 going to sustain the objection.

17 **BY MR. RYAN:**

18 Q So, did you ever hear Mr. Eason refer to white
19 nationalism, refer to RAM, as white nationalist?

20 A No.

21 Q If you can look at Exhibit 5, page 1 --

22 **MR. McNICHOLAS:** Your Honor, again, I'm going to
23 object to this line of questioning. It's irrelevant. Whether
24 Mr. Eason is anti-Semitic has nothing to do with whether he's a
25 danger to the community or is a flight risk. And we're going

1 way off with this line of questioning.

2 **THE COURT:** I guess my first comment is, my binder
3 doesn't have Exhibit 5.

4 **MR. RYAN:** All right. It should have a tab that says
5 Exhibit 5, and that --

6 **THE COURT:** Oh, it does --

7 **MR. RYAN:** -- okay.

8 **THE COURT:** -- but there's nothing behind it.

9 **MR. RYAN:** Is the cover sheet?

10 **THE COURT:** So --

11 **MR. RYAN:** Well, why don't you take my binder?

12 **THE COURT:** -- I wonder if that's --

13 **MR. RYAN:** Take my binder, there.

14 **MR. PENCE:** Your Honor, may we approach with a new
15 binder for?

16 **THE COURT:** Thank you. Maybe, okay, all right.

17 **MR. RYAN:** I'm happy to address the objection if Your
18 Honor would like.

19 **THE COURT:** I do, I'm inclined to sustain it because
20 I don't see how this goes to the issue of danger or what's been
21 charged.

22 **MR. RYAN:** Certainly, Your Honor. So, as the court
23 previously ordered defendant detained, primarily due to danger
24 to the community. As the court noted, the allegations set
25 forth, the defendant's association with an extremist, white

1 supremacist organization that violently attacked people. And
2 then used footage of those attacks along with repeatedly
3 racist, anti-Semitic, and Neo-Nazi messages to recruit more
4 members. I think, at that detention hearing as well as for the
5 other defendants in the case, and in the complaint and the
6 indictment, the ideology of the organization is relevant both
7 to the underlying charges, but also with respect to danger.
8 Because the allegations are not that these were random acts of
9 violence people happened to get into a fight, but that this was
10 an organization, a conspiracy, it's charged a conspiracy, that
11 this was an organization that existed to further its white
12 supremacy, extremist ideology.

13 And so, that makes its activities and its members
14 more dangerous than those who might have on one occasion or
15 another happen to get into a fight. The white supremacist
16 nature of the organization is set forth in numerous of the
17 overt acts, numerous paragraphs of the complaint. It was the
18 organizing principle for the organization.

19 **THE COURT:** I guess --

20 **MR. McNICHOLAS:** And Your Honor, it's a 411 argument
21 as well. If in fact, the government insists on attacking
22 individuals for their viewpoint, perhaps they should go after a
23 white supremacist organization in a RICO prosecution, but not
24 in this case. Because they're using prejudice to keep these
25 individuals tied up in court on a very minor charge compared to

1 what we normally see in federal court, where they're looking at
2 maybe a year in jail if they're convicted. Yet, we have this
3 huge attempt to inflame the court by throwing things in here
4 that are completely irrelevant to what they're charged with.

5 **THE COURT:** Mr. Ryan, I guess my concern with this
6 line of questioning though, is that Ms. Welsh, Welch excuse me,
7 has already said that she doesn't testify that she was not
8 familiar with Mr. Eason's association with RAM or any other
9 organization. So, unless you think, have reason to think that
10 she's going to say, yes, she has seen or discussed, somehow has
11 personal knowledge with respect to Exhibit 5 --

12 **MR. RYAN:** My anticipation would be that she had not
13 based on her prior testimony, and that's what I wanted to
14 confirm. But, happy to move on, Your Honor, if you'd prefer.

15 **THE COURT:** Okay. Thank you.

16 **MR. RYAN:** Okay.

17 **THE COURT:** So, I'll go ahead and sustain the
18 objection.

19 **(Pause)**

20 **MR. RYAN:** No further questions, Your Honor. Thank
21 you very much.

22 **THE COURT:** Okay. Any re-direct, Mr. McNicholas.

23 **MR. McNICHOLAS:** No, Your Honor.

24 **THE COURT:** All right. I just have a couple of
25 questions, Ms. Welch. How long have you known Mr. Eason?

1 **THE WITNESS:** Since the 2017 march. March 4th.

2 **THE COURT:** That's the San Diego?

3 **THE WITNESS:** Yes.

4 **THE COURT:** Okay.

5 **THE WITNESS:** Yes, Your Honor.

6 **THE COURT:** And how would you describe your
7 relationship with Mr. Eason?

8 **THE WITNESS:** We're friendly. He was very smart,
9 intelligent, and he helped me with coming up with ideas and
10 gathering people to support the Berkeley event.

11 **THE COURT:** Okay. And, you mentioned that, for as
12 part of the San Diego event, is it you were one of the
13 organizers or an, the organizer?

14 **THE WITNESS:** Yes.

15 **THE COURT:** Okay.

16 **THE WITNESS:** The, the March for Trump started, I
17 think, the first march was going to be in D.C. or something.
18 And, what ended up happening, a lot of other states wanted to
19 hold their own march, a lot of other towns. And so, people
20 elected to hold their own. I inquired about the San Diego, if
21 there was going to be one in California.

22 **THE COURT:** Uh-huh.

23 **THE WITNESS:** I heard there was one happening in
24 Berkeley, and I decided that was too far. And, someone reached
25 out to me and said that there's no one organizing one for San

1 Diego, that if I wanted to, I could organize that one.

2 **THE COURT:** Okay.

3 **THE WITNESS:** For the location.

4 **THE COURT:** And you were asked questions by
5 Mr. McNicholas about, or said something to the effect of, it
6 was a peaceful march. And you mentioned that you had
7 coordinated with law enforcement, and perhaps the FBI --

8 **THE WITNESS:** Correct.

9 **THE COURT:** -- to ensure that, is that? With respect
10 -- and then you were later asked to help in some capacity with
11 Berkeley?

12 **THE WITNESS:** Uh-huh.

13 **THE COURT:** Did you undertake, was there similar
14 efforts with respect to outreach to law enforcement?

15 **THE WITNESS:** For Berkeley --

16 **THE COURT:** Yes.

17 **THE WITNESS:** -- no. The main organizer, Rich Black,
18 who organized with David Fatta (Phonetic), they said they had
19 it under control and they already had permits and Berkeley
20 Police. They quoted, Berkeley Police is all over it. That
21 they're going to be there to protect, and it's not going to be
22 anything like the first event that happened at Berkeley. And
23 so, I was like, okay. But they did ask if I could bring more
24 supporters in. Just to help with protecting the attendees.

25 **THE COURT:** Okay. So, supporters, okay.

1 **THE WITNESS:** Uh-huh.

2 **THE COURT:** And then, last question I think, so you
3 were shown pictures where it appears that Mr. Eason is, has
4 some physical contact with other individuals. I just wanted to
5 clarify, is it your testimony that you weren't there at that
6 moment? That you weren't around Mr. Eason when that, when
7 those events unfolded.

8 **THE WITNESS:** Yeah. I was near the area, by you
9 know, of being shorter than a lot of the people I was kind of
10 far enough to where I wouldn't get hurt. Because there were
11 firecrackers and M-80s going off at the same time.

12 **THE COURT:** Okay. So, you didn't, I guess what I'm
13 trying to get at is, were you there as Mr. Eason had this
14 contact that we see depicted in the pictures? You weren't?
15 Okay. All right.

16 I don't have anything else. Mr. McNicholas, do you
17 want to ask anything in follow up to what I asked?

18 **MR. McNICHOLAS:** No, Your Honor.

19 **THE COURT:** Oh, okay. All right, Mr. Ryan?

20 **MR. RYAN:** No, Your Honor. Thank you.

21 **THE COURT:** Okay. Thank you so much, Ms. Welch, for
22 coming down.

23 **THE WITNESS:** Okay, thank you. Thank you, Your
24 Honor.

25 **THE COURT:** Thank you.

1 **(Witness steps down)**

2 **THE COURT:** Okay. Anything else Mr. McNicholas,
3 before we turn to argument?

4 **MR. McNICHOLAS:** No, Your Honor. I'm ready to argue.

5 **THE COURT:** Okay. All right. And I, the government,
6 nothing from the government?

7 **MR. RYAN:** No, Your Honor.

8 **THE COURT:** Okay. Then Mr. McNicholas, why don't you
9 begin please.

10 **MR. McNICHOLAS:** Your Honor, and I'm trying to stress
11 the least significant aspect of this hearing, is the facts of
12 the case. However, even the government's exhibits where they
13 show Aaron Eason squaring off in kind of a fight stance,
14 there's about fifty black clad individuals running towards him
15 in that photograph. One against fifty. He's wearing a light
16 colored shirt, so he can be noticed because he thinks he's on
17 the good side. He's actually there to defend, not to attack.

18 It's also important, the government showed the stills
19 of Aaron Eason with his arms swinging in a punch, but the
20 government did not show the full picture. The government is
21 hiding the truth, which is shown in our Exhibit 13, starting
22 with 13A, the first page. That kid comes right at him,
23 swinging at Aaron. Aaron Eason is not punching him. He's
24 holding his arm up to block the guy's punch. Then, on the
25 second page, the individual's actually tackling Aaron Eason.

1 Okay? So he's got, he's being tackled. They go all the way to
2 the ground, and it's not until the ground, the guy's still
3 holding onto Aaron Eason's legs. And Aaron Eason's surrounded
4 by a hundred people in black garb with masks on, and this guy's
5 got him by the legs. He's doing whatever he can to free
6 himself. That's what he is doing in that video. He's not
7 doing anything else. Once he's free, he stands up, he stand
8 guard, and he goes back to his station. The government wants
9 you to believe something totally different than what actually
10 occurred.

11 So, with that in mind, Your Honor, that's what Aaron
12 Eason did. Aaron Eason went to a couple training sessions, he
13 did have some dealings with some of these people that were
14 there. He was never, and the government can't prove this, he
15 was never associated with the Rise Above Movement. They have
16 no evidence, except for him showing up and going to a boxing,
17 training, in the park, in a public location which almost
18 everybody in this courtroom probably has done at one point in
19 their lives, at least recently. Because it's very popular
20 nowadays to do kickboxing, sparring, martial arts, and all that
21 sort of thing, especially with the millennial crowd.

22 So, there's no doubt he was there, there's no doubt
23 that he trained, but this whole thing about going to that extra
24 step, the government has the evidence. The evidence that I've
25 seen in this case has video, and Aaron Eason's not part of any

1 of the Rise Above Movement video in any way, shape, or form,
2 because he's not part of that group.

3 For the court's just education, I do intend to
4 request severance, because Mr. Eason's not affiliated with that
5 group. I also intend to file a motion to dismiss, because I
6 believe that the government has misrepresented the facts to the
7 grand jury in getting this indictment. Because, virtually
8 every word of the first ten paragraphs of the indictment is
9 false. So, we will be attacking that.

10 But, just going to the, assuming, assuming he was
11 there to fight people that one day, he has a lifetime of no
12 crime. A lifetime of no violence. There's a woman who stood
13 up here and said, that's not her experience with Aaron Eason,
14 is he's not a danger. Her experience with Aaron Eason, he's
15 not a flight risk. We have his father and his sister here in
16 the courtroom, and his brother, people that know him the best
17 are willing to put their lives on the line in order to sign for
18 Mr. Eason and put up a bond in order, because they believe he's
19 not a flight risk. They believe he's going to come to court
20 and they believe he's not going to threaten anybody. Mr. Eason
21 has zero ties with any white nationalist groups.

22 And once again, I want to go back to Mr. Laube.
23 Mr. Laube plead guilty. He's guideline a level, which if
24 Mr. Eason had the same plea agreement, it would be nine to
25 thirteen months imprisonment for that charge. Nine to thirteen

1 months.

2 I also worked on the ICDA Panel in L.A. Superior
3 Court, and I don't know if the court is aware, but just
4 recently there's been a massive bail reform to make the state
5 system more like the federal system, in that people are
6 basically being held to a bail schedule that was impossible and
7 did not fit the crimes. And defendants in L.A. Superior Court
8 were being forced to enter guilty pleas simply because by the
9 time their cases got to trial, they were long past time served,
10 and the only reason why they plead guilty, was so they would get
11 out of jail. And this is looking like this would be one of
12 those situations, Your Honor. And it shouldn't be that way.
13 There is not enough at stake, regarding the current charges
14 that Mr. Eason would have any interest at all not to come to
15 court and if convicted, to serve his sentence accordingly. So,
16 I wanted to make that point as well.

17 Again, the facts speak for themselves. The
18 aggregating factors, he was filmed in a physical altercation,
19 he had bright colors, he went to a few training sessions. The
20 points in mitigation, no weapons, no tape, no masks, no
21 membership in RAM. The facts actually show, that I presented
22 to the court, clearly show self-defense and not an attack. No
23 record, a lifetime in the Central District of California, and
24 also, racial diversity of the group. Just to contradict
25 everything that the government claims about Mr. Eason's

1 involvement, his group had the racially diverse side. The
2 other side, you couldn't tell because they all looked like they
3 were all wearing black.

4 The condition, or combination of conditions, could
5 easily be fashioned, Your Honor. I do believe if there's any
6 concern, it could be met with a GPS ankle monitoring device.
7 Mr. Eason could be required to work, he could be required to
8 attend anger management, he could be required to stay away from
9 anybody associated with this case. It could be done extremely
10 easy, Your Honor. He lives far enough from everybody else, I
11 mean, as you know well most of the people involved are in jail.
12 But, from my recollection, most of these people that were
13 allegedly associated with this group lived either in South Bay,
14 Redondo Beach area, some lived down in southern Orange County.
15 Mr. Eason lives in east, in the east part of the valley near
16 Palm Springs. So, that's how far away he is. So, they live on
17 a ranch up in the hills there, and they have no, they have no
18 interaction with most of society.

19 **THE COURT:** So, Mr. McNicholas, before I turned to
20 the government, I'm thinking back to the first detention
21 hearing. I did spend a lot of time looking at the text
22 messages, I think they're all text messages, maybe they're
23 emails. And so I came, I come back to those again, both in the
24 complaint, and then ones that are in the indictment. And I
25 appreciate the point you're making. It sounds like among

1 others, that there's no video or other documentary evidence to
2 affirmatively show Mr. Eason's membership in this organization,
3 RAM.

4 But, I look at the text messages, which show, it
5 appears communication among some of the charged individuals.
6 But, then there are these other individuals not identified, the
7 co-conspirators numbers 1 and 2. And then I look at just the
8 language, the content of the messages. Which seem to
9 contradict, or I think in parts do contradict, the averment of
10 no knowledge about what was afoot. So, I, I'm not sure there
11 is any additional response. But I just, I do always like to
12 let the attorneys know where I'm focused.

13 **MR. McNICHOLAS:** And, Your Honor, I believe I gave a
14 response, and I mentioned trees. That actually was a
15 legitimate response, when you talked Mr. Eason being more
16 politically engaged or politically active. And I think that's
17 the text you're referring to.

18 **THE COURT:** Right. He wanted to go hard, he'd taken
19 some --

20 **MR. McNICHOLAS:** Right. Hard and in community
21 involvement, and political involvement, it's not all about
22 beating people up, Your Honor. It's about doing good for the
23 community. Mr. Eason was telling them about different
24 community service projects that he wanted to work on, like
25 beautification of his neighborhood. And that actually came up

1 in one of the letters as well, Your Honor. That he was
2 involved in that.

3 **THE COURT:** -- right. No, I remember that.

4 **MR. McNICHOLAS:** There are other ways, there are
5 other ways to be involved. However, even assuming, assuming
6 that these guys, the evidence speaks for itself. The video
7 speaks for itself. There were not going to be fights without
8 innocent people being attacked. And the innocent people were
9 on Mr. Eason's side of the mesh. But, you know, worst case
10 scenario, even if Mr. Eason had this day of violence, even if
11 he was violent for that one day, does that warrant keeping him
12 imprisoned pending his trial?

13 We have cases here in front of the court where
14 individuals, drug dealers, people with weapons, are released
15 based on signature bonds. Mr. Eason has a lifetime of no
16 criminal activity, yet here he sits here in custody because of
17 this very short period in his life. And it's completely
18 unreasonable, Your Honor.

19 **THE COURT:** Well, I think the, I do find -- you know
20 I appreciate that you're relaying the information as you, as
21 it's been described. But, the explanation about the trees, at
22 the time I was, I found difficult to credit. I, and now
23 looking at the indictment, which I think was returned after was
24 returned.

25 **MR. McNICHOLAS:** The indictment was actually issued

1 prior, just like the day before the detention hearing. We
2 didn't have an opportunity --

3 **THE COURT:** Oh, okay.

4 **MR. McNICHOLAS:** -- to review it fully.

5 **THE COURT:** Okay.

6 **MR. McNICHOLAS:** I have reviewed it since --

7 **THE COURT:** Okay.

8 **MR. McNICHOLAS:** -- and I still, I challenge
9 virtually every word.

10 **THE COURT:** Well --

11 **MR. McNICHOLAS:** Prior to the overt acts.

12 **THE COURT:** -- well, I guess so that was then, I did
13 not similarly digest it. I had not focused on another text
14 message sent to an unidentified individual by Mr. Easton that
15 talks about -- I guess I'm not sure about the timing of it. It
16 appears to be after Berkeley.

17 **MR. McNICHOLAS:** Is it an overt act, Your Honor?

18 **THE COURT:** It is. It's overt act number 23.

19 Because, my understanding, my notes said that the Berkeley
20 event was in mid-April. And so this is in a text message sent
21 after that.

22 **MR. McNICHOLAS:** It was sent the following, five days
23 later.

24 **THE COURT:** Five days later. And so, I don't know
25 what it's in reference to.

1 **MR. McNICHOLAS:** Oh.

2 **THE COURT:** Again, it talks about Berkeley.

3 **MR. McNICHOLAS:** Yes, Your Honor. And I will tell
4 you exactly what happened. Ann Coulter, I don't know if the
5 court's heard of Ann Coulter, but she's fairly famous
6 conservative journalist. And she's an editorialist, and she's
7 featured on Fox News, and she writes columns in various
8 different publications.

9 She was scheduled to speak in Berkeley right after
10 the event occurred, where the riot occurred. And, there was
11 pressure on her from Berkeley, they actually canceled, or they
12 withdrew her permit so she could not speak. But, the rally
13 organizers were going to go forward with the event anyway
14 without Ann Coulter. Well, Aaron Eason volunteered to go up to
15 that rally and actually film it, videotape it. And, you know,
16 hopefully nothing would occur that day. Apparently, ANTIFA
17 didn't get the memo that the event was still on, and none of
18 them showed up. But Aaron Eason was there. Aaron Eason
19 actually filmed the event. Ann Coulter wasn't there. It was a
20 minor event, but there were speakers, they were there. So
21 that's what that was.

22 **THE COURT:** So, that he was going up there to film
23 it?

24 **MR. McNICHOLAS:** Yeah, and he did. And he, Mr. Eason
25 actually filmed the event and shared the film with a website.

1 **THE COURT:** Okay. All right. Thank you,
2 Mr. McNicholas. I'll hear from the government.

3 **MR. RYAN:** Thank you, Your Honor. So, the court
4 previously ordered the defendant detained, as I said, primarily
5 due to danger to the community. Maybe I'll step over to the --

6 **THE COURT:** I think it was exclusively the danger --

7 **MR. RYAN:** -- okay.

8 **THE COURT:** -- I think it, or it certainly wasn't
9 with respect to flight. I think Mr. McNicholas and I had a
10 robust conversation about that at the time.

11 **MR. RYAN:** Now, we're back again, and what we have
12 new in terms of the facts presented, we have the indictment in
13 addition to the complaint. We have a declaration and testimony
14 which, I think, generally reviewed the declaration from a
15 person who apparently was not at, two of the three events
16 described in the charges. And apparently did not see the
17 relevant assaults discussed in the charges at the Berkeley
18 event. Apparently didn't know anything about the Rise Above
19 Movement, didn't know about the defendant's participation at
20 events arranged by the Rise Above Movement trainings, et cetera

21 That testimony, declaration is essentially though a
22 restatement of the argument that I understand defendant
23 presented before, which is essentially that he didn't do it,
24 that he's not guilty. Of course, a detention hearing is not
25 the forum for a mini trial on the merits, and we do take the

1 allegations, but I'll just make three points about those
2 allegations.

3 Before I do, just to touch on two quick things. The
4 guideline sentence of nine to thirteen months that defense
5 counsel raised, I suspect that's coming from the base offense
6 level that was identified in the plea agreement without any of
7 the enhancements which apply of which, is that not right?

8 **MR. McNICHOLAS:** If I could clarify, it would be the
9 base offense level with acceptance of responsibility, criminal
10 history category one.

11 **MR. RYAN:** Right. So without any of the specific
12 offense characteristics that the government anticipates would
13 apply. So, of course its unsurprising that the argument from
14 the defendant is that he's not guilty.

15 First, the idea that the defendant was not affiliated
16 with RAM. And we've just provided a few excerpts to the court.
17 I hesitate to make this, as I say, a mini trial on the evidence
18 that the government would produce, or would produce at trial.
19 The allegations which are supported by the text messages in the
20 indictment, in the complaint, the excerpts of the photographs
21 that we've provided are that he trained with RAM, helped
22 organize the RAM trainings, traveled to events with RAM locally
23 and in northern California, remained alongside the RAM members
24 at the events, fought alongside RAM at the events.
25 Communicated frequently with RAM leaders in person, on social

1 media, through phone. This is for several months. Several
2 months when RAM was at its peak establishing its reputation, at
3 least four different events for what its Twitter account called
4 quote, the only alt-right crew that actually beats ANTIFA
5 senseless and wins rallies. Or what it's co-founder Ben Daley
6 called quote, the only reason shit was popping off at So-Cal
7 right wing events.

8 This is how RAM presented itself, very openly
9 throughout 2017. And defendant's involvement with that
10 organization is pretty continuous and significant throughout
11 that period of time. That's what's set forth in the
12 allegations, we provided a few snippets of what the evidence
13 would be on that point.

14 Second, the idea, I think at the last hearing, the
15 argument from the defendant was that he was quote, standing
16 nearby as other engaged in violence. That there weren't
17 pictures of him engaging in violence, we've provided those
18 exhibits here. I would note that the statement that the
19 defendant was surrounded when he was engaged in violence at
20 Berkeley by a lot of people in black shirts, is because the
21 defendant and the RAM members that he was with had, as they
22 later said, crossed the barrier to engage and that had a huge
23 impact. Those are not my words, that's Ben Daley's words about
24 what happened. The video does show that, that's why they're
25 surrounded by the other side. They were on the other side.

1 They'd crossed the barrier, and that's when the fights broke
2 out.

3 After that one fight, that's Exhibit 1, I think
4 Counsel made the argument that the defendant went back to the
5 other side. But, of course, there's Exhibit 2, which is
6 another fight on the ANTIFA side of the barrier. That fight
7 lead to the police intervening and arresting Mr. Rundo, one of
8 the RAM members the defendant was fighting alongside throughout
9 the day.

10 Exhibit 3 is after the fights on the grass, when the
11 majority of the protesters, counter-protesters, whatever the
12 terminology, had left the grass and were going down the street.
13 And the defendant, Mr. Daley, and RAM members, and people they
14 had traveled with were pursuing them along the street and
15 engaging in assorted scuffles as that occurred.

16 So, the idea that the defendant was just standing
17 nearby quote unquote, which was their argument before, I think
18 that's just not supported either by the allegations, or again,
19 the little excerpts or snippets that have been presented.

20 And then third and finally, the idea that the
21 defendant didn't associate with RAM's ideology, which is
22 relevant to the finding of danger because part of the danger
23 here is that these were not random events. This was a
24 coordinated effort by a group of people. The effort was as Ben
25 Daley, the founder, put it to quote live the fourteen words.

1 Live the fourteen words was the stated mission, a stated
2 mission, of the organization that the defendant is charged with
3 affiliating with and conspiring with to commit these crimes.

4 So, that's part of the danger. If they were random
5 events, he'd arguably be less dangerous. The social media
6 posts and communications between RAM members, a very few of
7 which are provided in Exhibit 5, highlight that ideology. If
8 the court would like, we can provide many more.

9 These are the gist of the reasons why all eight of
10 the RAM members charged in this case, and the related case in
11 Virginia remain detained pending trial. I believe the
12 defendant should as well, Your Honor. If the court has any
13 further questions, I'm happy to answer them.

14 **THE COURT:** Okay. Thank you. Mr. McNicholas, any
15 response?

16 **MR. McNICHOLAS:** Clearly, the government has a huge
17 burden when this case actually goes to trial. And, it's going
18 to hands full. Because, we just had a witness who totally
19 contradicts every word that the government states as to who
20 instigated the fighting. And, I do think it's quite ridiculous
21 that an individual would be in custody for fist fighting
22 pending trial. Because, that's really what it comes down to.
23 When no weapons, no weapons -- and this group, this RAM group
24 that they condemn, no drugs, no alcohol, pure lifestyles, there
25 you know there's a lot worse. Maybe they don't agree mentally,

1 they don't have the same point of view that's correct for
2 today's society, but these individuals that really thought they
3 were doing the right thing. Aaron Eason wasn't part of RAM.
4 The RAM videos that the government has provided in discovery do
5 not show Aaron Eason. He was never part of the group.

6 When they all showed up with their masks, at
7 Berkeley, Aaron Eason wasn't given a mask. Aaron Eason wasn't
8 given a cape. Aaron Eason wasn't part of their promotions.
9 Aaron Eason's fifteen years older than most of those guys.
10 There's just not a connection.

11 So, we will submit on that.

12 **THE COURT:** Thank you, Mr. McNicholas.

13 **MR. RYAN:** Very briefly, Your Honor --

14 **THE COURT:** Can I, let me just ask a question.

15 **(Pause)**

16 Mr. Ryan, on Exhibit 2, the very last photograph,
17 that would be one, two, three --

18 **MR. RYAN:** -- Your Honor, may I go grab it off the
19 witness stand?

20 **THE COURT:** -- five --

21 **MR. RYAN:** I think we gave the court our binder.

22 **THE COURT:** -- no, let me. I'll hand that. I
23 apologize, let me hand, okay. Do you have an extra copy? It
24 wasn't touched upon, I don't, I just don't understand what that
25 is.

1 **MR. RYAN:** I'm sorry, which page?

2 **THE COURT:** So, it's the very last page of Exhibit 2.

3 **MR. RYAN:** Oh, so in the altercation that's shown on
4 the previous two pages, the RAM guys in the masks, that's Ben
5 Daley there in the blond, and Michael Miselis there, or Robert
6 Boman there next to him, ripped this banner away from a group
7 of other protesters. And this is a photograph of them
8 celebrating that, and it's Mr. Eason there next to them.

9 Mr. Eason drove this group in a van, that's set forth
10 in the indictment that he rented and then traveled to the event
11 with them. And then, it's just one example along with the
12 others of him being with the group throughout the, going to the
13 event, fighting at the event, leaving the event, training for
14 the event, organizing the next event, et cetera.

15 **THE COURT:** Okay. All right, thank you. And I
16 interrupted you Mr. Ryan. You wanted to make one point.

17 **MR. RYAN:** No, that was the point I was going to
18 make. So, that's enough.

19 **THE COURT:** All right. Mr. McNicholas, what I'm
20 going to do as I go through this, I think procedurally I need
21 to anchor whatever I say to your bail review filing. And one
22 of the points that you raise in seeking reconsideration from
23 the District Judge is that I failed to consider the delay and
24 the self-surrender. And I apologize if I made an imperfect or
25 inaccurate record, but I don't, that did not factor in to my

1 consideration.

2 And I similarly thought that I had been clear that
3 the detention order was with respect to danger and not with
4 respect to flight. Because, at the original hearing you had
5 proffered significant sureties. There was the lack of criminal
6 history as well as the fact of the self-surrender. So, I'll
7 just state clearly, in my mind the time between the notice that
8 Mr. Eason purportedly received the warrant for his arrest, and
9 the ultimate self-surrender did not make an impact on my
10 decision.

11 With respect to, at the time of the detention hearing
12 you had not had an opportunity to obtain more information from
13 organizers of perhaps another event. I don't know if you meant
14 the Berkeley event, I assume based on what you presented today
15 that you mean, for example, Ms. Welsh, and being able to obtain
16 her testimony. And that this information, her testimony
17 combined with videos of the event supports your argument that
18 Mr. Eason is not a danger.

19 So, I'll begin first with Ms. Welsh, who I thought
20 was a credible witness who testified to what she knows and
21 appeared to be truthful about that. One thing though that
22 stood out, and I asked a follow up question about the extent of
23 her relationship in terms of how much she knows Mr. Easton,
24 because I think that goes, or informs my evaluation of how well
25 she knows Mr. Eason as a person and as an individual. And it

1 sounds like it's their friendly, I think is the word that she
2 used. And it was clear to me that when shown exhibits,
3 photographs of Mr. Eason in other situations, even at the
4 Berkeley event, that she testified that she had no familiarity
5 and indeed with respect to what happened at Berkeley, that she
6 was not within the immediate vicinity, and therefore was not a
7 percipient witness. I think that's a fair characterization of
8 what happened at Berkeley. And similarly was unaware of
9 Mr. Eason's participation at these training events.

10 And I think, without getting into how you would
11 characterize that, if that was a RAM organized event, or an
12 event for RAM members, she simply just doesn't know anything
13 about it. And so, I think that limits her knowledge as to
14 whether or not Mr. Eason is a danger to the community.

15 When we were together at the first detention hearing,
16 my recollection is that the allegations in the complaint were
17 limited with respect to whether or not Mr. Eason had engaged in
18 any physical contact or assaults. I think there was a
19 generalized reference, but I thought it was, there wasn't that
20 much there. Since then, what I have confirmed in front of me
21 is that Mr. Eason did engage physically with other individuals
22 who were present at the Berkeley event. I appreciate your
23 characterization, or your description Mr. McNicholas, that this
24 was perhaps self-defense or defense of others. But, at least
25 in looking at the stills of the video, he did engage in

1 physical contact with at least one, potentially two,
2 individuals at the Berkeley event. So, again, I think that
3 that goes to what you stated in your bail review as bases, some
4 of the bases for why the court should consider, or reconsider,
5 its previous detention order.

6 So, I just wanted to address what I see as the new
7 information that's presented to the court. Is there anything
8 else that you think is newly presented to the court that I
9 should address for purposes of the record, Mr. McNicholas?

10 **MR. McNICHOLAS:** No, Your Honor.

11 **THE COURT:** Okay. All right. Then based on all of
12 that, I'm going to deny the, Mr. Eason's request for
13 reconsideration of bail. Mr. Eason, so I'm essentially denying
14 your attorney's request. It's up to you and your attorney
15 whether or not you now want to take this before the District
16 Judge, who is the Judge who is presiding and will handle your
17 case. The substance of the case going forward.

18 Anything else for today, Mr. McNicholas?

19 **MR. McNICHOLAS:** No, Your Honor.

20 **THE COURT:** All right. From the government?

21 **MR. RYAN:** No, Your Honor.

22 **THE COURT:** Okay. Thank you.

23 **(Proceeding adjourned at 2:25 p.m.)**

24

25

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

A handwritten signature in blue ink, appearing to read "Toni Hudson", is positioned above a horizontal line.

December 13, 2018

TONI HUDSON, TRANSCRIBER